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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/707,831	01/15/2004	David J. Houston	08855-00009	1830
27144	7590	04/04/2006	EXAMINER	
FOSTER, SWIFT, COLLINS & SMITH, P.C. 313 SOUTH WASHINGTON SQUARE LANSING, MI 48933			CHIU, RALEIGH W	
			ART UNIT	PAPER NUMBER
			3711	

DATE MAILED: 04/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/707,831

Applicant(s)

HOUSTON ET AL.

Examiner

Raleigh Chiu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 5-15 and 17-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 5-15 and 17-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 5-9, 13-15 and 17-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cutrone (USPN 4,971,319) in view of Shigeru as previously applied (JP 10192469).

As previously set forth, regarding claims 5, 6, 14, 15 and 17, Figures 1 and 7 of Cutrone show a pair of ramp members 30,34 extending the length of a net and configured to a height of less than the height of the net. Although the Cutrone device is used in tennis, it would have been obvious to one of ordinary skill in the art to extend this teaching to table tennis in view of the well-known similarities between the two sports and the commonly-shared problem of retrieving balls. Figures 1-5 of Shigeru show an end bracket 8 placed at the an end of a table tennis net to return a ball caught by the net and to prevent the ball from falling off the table. As such, it would have been obvious to one of ordinary skill in the art to place the Shigeru end bracket at the end of the Cutrone ramp members as modified above to allow more balls to be returned to the player. To the extent that Shigeru shows only the one end bracket, it would

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have been obvious to one of ordinary skill in the art to provide end brackets on both ends of the net to return more balls.

In response to applicant's argument that the Cutrone configuration merely causes a returned ball to move close to the player so that the player need not move a great distance to retrieve the returned ball and that the instant claimed invention is configured to return the ball to the user, not merely closer, the Cutrone ramp in fact allows the ball to "roll all the way back to him" after it hits the net. See column 5, lines 29-30. Given such a teaching, it is submitted that one of ordinary skill in the art would have found it obvious to extend this teaching to other net sports such as table tennis so that balls that would otherwise hit the net and remain there would instead roll down the ramp and return to the player.

Although applicant also argues that in tennis, a player must move all around the playing surface, while in table tennis, a player must avoid the playing surface, it is noted that in both sports, the ball rolls over the playing surface and back towards the player.

Regarding applicant's additional limitation of a "rigid" ramp, it would have been obvious to one of ordinary skill in the art to make the modified Cutrone ramp rigid in view of Shigeru

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who teaches that rigid plates or ramps 1 are known to be used to re-direct table tennis balls back to a player.

In response to applicant's argument that a Cutrone ramp would meet the Shigeru end bracket, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. In the instant case, as Cutrone teaches the concept of re-directing balls back to the player that would otherwise remain at the net and Shigeru teaches the concept of re-directing balls back to the player that would otherwise fall off the table, it would have been obvious to one of ordinary skill in the art to use both a ramp and end brackets to allow a player more time to play/practice and less time in retrieving balls.

Regarding claims 7, 8, 20 and 21, it would have been obvious to one of ordinary skill in the art to connect the two ramp members with each other to better secure the device during use.

Regarding claim 9, hooks are considered to be well-known connectors; the specific type of connector is not considered to

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be critical but whose selection would have been within the capabilities of one of ordinary skill.

Regarding claims 13 and 22, Figure 7 of Cutrone shows support element 110,112 connected to the backside of the ramp members.

Regarding claims 18 and 19, base 1 of Shigeru corresponds to the recited extension portion.

Regarding claim 23, it would have been obvious to one of ordinary skill in the art to combine the ramp members and end brackets together in a kit, simplifying the user's life by consolidating all the necessary ball-returning elements together.

3. Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cutrone in view of Shigeru and Vandeveld (USPN 4,919,421) as previously applied.

Regarding claim 10, although Cutrone shows the ramp to be made from netting, it would have been obvious to one of ordinary skill in the art to make them as paneled material in view of Vandeveld who discloses that it is old and well-known in the art to construct ball returners in such a manner. See Vandeveld at column 2, lines 51-54. While it is recognized that the Vandeveld diverters are intended to be used to retain balls, Vandeveld is relied upon merely to show that ball diverters used

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in combination with sports nets are known in the art to be made from connectable sections. Moreover, it would have been an obvious matter of design choice to make the Cutrone ramps as modified above separable, since such a modification would have involved a mere separation of elements. To make an element separable is generally recognized as being within the level of ordinary skill in the art.

Regarding claims 11 and 12, to join the elements together using well-known connecting expedients would be similarly obvious to one of ordinary skill.

#### ***Response to Arguments***

4. Applicant's arguments filed 28 December 2006 have been fully considered but they are not persuasive for the reasons set forth above.

#### ***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action

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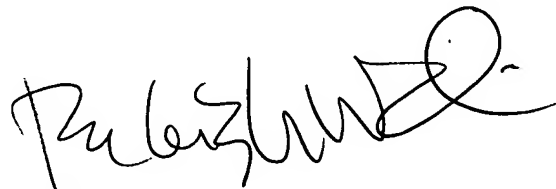
is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raleigh Chiu whose telephone number is (571) 272-4408. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eugene Kim, can be reached on (571) 272-4463.

The fax number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Raleigh W. Chiu  
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